

Senate File 363

S-3104

1 Amend the amendment, S-3102, to Senate File 363 as  
2 follows:

3 1. Page 1, by striking lines 4 through 30 and  
4 inserting:

5 <<Section 1. LEGISLATIVE FINDINGS. The general  
6 assembly finds that establishing a sound criminal  
7 justice and public health policy toward individuals  
8 living with a contagious or infectious disease is  
9 consistent with an evidence-based approach to disease  
10 control that focuses on prevention strategies that  
11 include notification of current and previously exposed  
12 partners, evidence-based behavioral risk-reduction  
13 programming, promotion of voluntary disclosure to  
14 sexual and needle-sharing partners, and suppression of  
15 viral load through engagement in care and treatment  
16 programs.

17 Sec. 2. NEW SECTION. 709D.1 Title.

18 This chapter shall be known and may be cited as the  
19 "*Contagious or Infectious Disease Transmission Act*".

20 Sec. 3. NEW SECTION. 709D.2 Definitions.

21 As used in this chapter, unless the context  
22 otherwise requires:

23 1. "*Contagious or infectious disease*" means  
24 hepatitis in any form, meningococcal disease, AIDS or  
25 HIV as defined in section 141A.1, or tuberculosis.

26 2. "*Exposes*" means engaging in conduct that poses  
27 a substantial risk of transmission, but does not  
28 include conduct posing a low or negligible risk of  
29 transmission, consistent with guidance issued by the  
30 centers for disease control and prevention of the  
31 United States department of health and human services.

32 3. "*Practical means to prevent transmission*" means  
33 substantial compliance with a treatment regimen  
34 prescribed by a health care provider that measurably  
35 limits the risk of transmission of the contagious  
36 or infectious disease, substantial compliance with  
37 behavioral recommendations of the infected person's  
38 health care provider or public health officials to  
39 measurably limit the risk of transmission of the  
40 contagious or infectious disease, or other methods  
41 generally accepted by the medical profession to  
42 measurably limit the risk of transmission of the  
43 contagious or infectious disease, such as use of  
44 a medically indicated respiratory mask or use of a  
45 prophylactic device.

46 Sec. 4. NEW SECTION. 709D.3 Criminal transmission  
47 of a contagious or infectious disease.

48 1. A person commits a class "C" felony when the  
49 person knows the person is infected with a contagious  
50 or infectious disease and exposes an uninfected person

1 to the contagious or infectious disease with the intent  
2 that the uninfected person contract the contagious or  
3 infectious disease, and the conduct results in the  
4 uninfected person becoming infected with the contagious  
5 or infectious disease.

6 2. A person commits a class "D" felony when the  
7 person knows the person is infected with a contagious  
8 or infectious disease and exposes an uninfected person  
9 to the contagious or infectious disease with the intent  
10 that the uninfected person contract the contagious or  
11 infectious disease, but the conduct does not result  
12 in the uninfected person becoming infected with the  
13 contagious or infectious disease.

14 3. A person commits an aggravated misdemeanor  
15 when the person knows the person is infected with  
16 a contagious or infectious disease and exposes an  
17 uninfected person to the contagious or infectious  
18 disease acting with a reckless disregard as to whether  
19 the uninfected person contracts the contagious or  
20 infectious disease, and the conduct results in the  
21 uninfected person becoming infected with the contagious  
22 or infectious disease.

23 4. A person commits a serious misdemeanor when the  
24 person knows the person is infected with a contagious  
25 or infectious disease and exposes an uninfected person  
26 to the contagious or infectious disease acting with a  
27 reckless disregard as to whether the uninfected person  
28 contracts the contagious or infectious disease, but  
29 the conduct does not result in the uninfected person  
30 becoming infected with the contagious or infectious  
31 disease.

32 5. The act of becoming pregnant while infected  
33 with a contagious or infectious disease, continuing  
34 a pregnancy while infected with a contagious or  
35 infectious disease, or declining treatment for a  
36 contagious or infectious disease during pregnancy shall  
37 not constitute a crime under this chapter.

38 6. Evidence that a person knows the person is  
39 infected with a contagious or infectious disease and  
40 has engaged in conduct that exposes others to the  
41 contagious or infectious disease, regardless of the  
42 frequency of the conduct, is insufficient on its own  
43 to prove the intent to transmit the contagious or  
44 infectious disease.

45 7. A person does not act with the intent required  
46 pursuant to subsection 1 or 2, or with the reckless  
47 disregard required pursuant to subsection 3 or  
48 4, if the person takes practical means to prevent  
49 transmission, or if the person informs the uninfected  
50 person that the person has a contagious or infectious

1 disease and offers to take practical means to  
2 prevent transmission but that offer is rejected by  
3 the uninfected person subsequently exposed to the  
4 infectious or contagious disease.

5 8. It is an affirmative defense to a charge under  
6 this section if the person exposed to the contagious or  
7 infectious disease knew that the infected person was  
8 infected with the contagious or infectious disease at  
9 the time of the exposure and consented to exposure with  
10 that knowledge.

11 Sec. 5. Section 141A.3, subsection 2, Code 2013, is  
12 amended by adding the following new paragraph:

13 NEW PARAGRAPH. *0e.* Subject to availability  
14 of funding, develop and implement a comprehensive  
15 prevention program for individuals with HIV that  
16 includes engagement and retention in HIV care  
17 activities, risk reduction and behavioral prevention  
18 programming, partner notification services, case  
19 management and other supportive services, and  
20 assistance with health insurance coverage or medication  
21 costs for low-income individuals.

22 Sec. 6. Section 141A.9, subsection 2, paragraph i,  
23 Code 2013, is amended to read as follows:

24 *i.* Pursuant to sections 915.42 and 915.43, to a  
25 convicted or alleged sexual assault offender; the  
26 physician or other health care provider who orders the  
27 test of a convicted or alleged offender; the victim;  
28 the parent, guardian, or custodian of the victim if  
29 the victim is a minor; the physician of the victim if  
30 requested by the victim; the victim counselor or person  
31 requested by the victim to provide counseling regarding  
32 the HIV-related test and results; the victim's spouse;  
33 persons with whom the victim has engaged in vaginal,  
34 anal, or oral intercourse subsequent to the sexual  
35 assault; members of the victim's family within the  
36 third degree of consanguinity; and the county attorney  
37 who ~~may use the results as evidence in the prosecution~~  
38 ~~of sexual assault under chapter 915, subchapter V, or~~  
39 ~~prosecution of the offense of criminal transmission~~  
40 ~~of HIV under chapter 709C~~ filed the petition for  
41 HIV-related testing under section 915.42. For the  
42 purposes of this paragraph, "*victim*" means victim as  
43 defined in section 915.40.

44 Sec. 7. Section 692A.101, subsection 1, paragraph  
45 a, subparagraph (9), Code 2013, is amended by striking  
46 the subparagraph.

47 Sec. 8. Section 692A.102, subsection 1, paragraph  
48 c, subparagraph (23), Code 2013, is amended by striking  
49 the subparagraph.

50 Sec. 9. Section 915.43, subsections 4 and 5, Code

1 2013, are amended to read as follows:

2 4. Results of a test performed under this  
3 subchapter, except as provided in subsection 13,  
4 shall be disclosed only to the physician or other  
5 practitioner who orders the test of the convicted or  
6 alleged offender; the convicted or alleged offender;  
7 the victim; the victim counselor or person requested  
8 by the victim to provide counseling regarding the  
9 HIV-related test and results; the physician of  
10 the victim if requested by the victim; the parent,  
11 guardian, or custodian of the victim, if the victim is  
12 a minor; and the county attorney who filed the petition  
13 for HIV-related testing under this chapter, ~~who may use~~  
14 ~~the results to file charges of criminal transmission of~~  
15 ~~HIV under chapter 709C.~~ Results of a test performed  
16 under this subchapter shall not be disclosed to any  
17 other person without the written informed consent of  
18 the convicted or alleged offender. A person to whom  
19 the results of a test have been disclosed under this  
20 subchapter is subject to the confidentiality provisions  
21 of section 141A.9, and shall not disclose the results  
22 to another person except as authorized by section  
23 141A.9, subsection 2, paragraph "i".

24 5. If testing is ordered under this subchapter,  
25 the court shall also order periodic testing of the  
26 convicted offender during the period of incarceration,  
27 probation, or parole or of the alleged offender during  
28 a period of six months following the initial test if  
29 the physician or other practitioner who ordered the  
30 initial test of the convicted or alleged offender  
31 certifies that, based upon prevailing scientific  
32 opinion regarding the maximum period during which the  
33 results of an HIV-related test may be negative for a  
34 person after being HIV-infected, additional testing is  
35 necessary to determine whether the convicted or alleged  
36 offender was HIV-infected at the time the sexual  
37 assault or alleged sexual assault was perpetrated.  
38 The results of the test conducted pursuant to this  
39 subsection shall be released only to the physician or  
40 other practitioner who orders the test of the convicted  
41 or alleged offender, the convicted or alleged offender,  
42 the victim counselor or person requested by the victim  
43 to provide the counseling regarding the HIV-related  
44 test and results who shall disclose the results to the  
45 petitioner, the physician of the victim, if requested  
46 by the victim, and the county attorney who ~~may use~~  
47 ~~the results as evidence in the prosecution of the~~  
48 ~~sexual assault or in the prosecution of the offense of~~  
49 ~~criminal transmission of HIV under chapter 709C~~ filed  
50 the petition for HIV-related testing under section

1 915.42.  
2 Sec. 10. REPEAL. Chapter 709C, Code 2013, is  
3 repealed.>  
4 2. Title page, line 1, by striking <relating to the  
5 intentional transmission of> and inserting <creating  
6 criminal offenses relating to>>

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STEVEN J. SODDERS